



In 10/9
State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2486/P4

RPN:sac:ff

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gen cat

1 **AN ACT** *to renumber and amend* 895.527 (1); *to amend* 895.527 (3) and
2 895.527 (4); and *to create* 895.527 (1) (a), 895.527 (8), 895.527 (9), 895.527 (10),
3 895.527 (11), 895.527 (12) and 895.527 (13) of the statutes; **relating to:**
4 liability, immunity, and closure of sport shooting ranges.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 895.527 (1) of the statutes is renumbered 895.527 (1) (intro.) and
6 amended to read:
7 895.527 (1) (intro.) In this section, "sport;
8 ~~(E)~~ "Sport shooting range" means an area designed and operated for the use and
9 discharge of firearms.

and (b) are
(1) SECTION 2. 895.527 (1) (a) of the statutes is created to read:

2 895.527 (1) (a) "Clear and immediate safety hazard" means an imminent
3 danger to the public, which is an immediate and real threat of harm, and which could
4 reasonably be expected to cause death or serious physical injury to an individual, as
5 determined by a National Rifle Association range technical team advisor, based on
6 the criteria established in the National Rifle Association Range Book.

(b) "Law enforcement agency" has the meaning given in
7 SECTION 3. 895.527 (3) of the statutes is amended to read: 5. 165.83(1)(b),
165.83(1)(b)

8 895.527 (3) A person who owns or operates a sport shooting range is not subject
9 to an action for nuisance or to any state or local zoning conditions or rules, including
10 those related to noise or nonconforming use and no court may enjoin or restrain the
11 operation or use of a sport shooting range on the basis of noise, non-conforming use,
12 or any other state or local zoning condition or rule.

****NOTE: The state issues rules while the federal government issues regulations,
so I removed the reference to "regulation" because it is not appropriate.

13 SECTION 4. 895.527 (4) of the statutes, as affected by 2013 Wisconsin Act 35,
14 is amended to read:

15 895.527 (4) Any sport shooting range that exists on July 16, 2013, may continue
16 to operate as a sport shooting range at that location notwithstanding any zoning
17 ordinance enacted under s. 59.69, 59.692, 60.61, 60.62, 61.35 or 62.23 (7), if the sport
18 shooting range is a lawful use or a legal nonconforming use under any zoning
19 ordinance enacted under s. 59.69, 59.692, 60.61, 60.62, 61.35 or 62.23 (7) that is in
20 effect on July 16, 2013. The operation of the sport shooting range continues to be a
21 lawful use or legal nonconforming use notwithstanding any expansion of, or
22 enhancement or improvement to, the sport shooting range.

23 SECTION 5. 895.527 (8) of the statutes is created to read:

An owner or operator of a sport shooting range, or an

895.527 (8) ~~Any~~ public or private owner, operator, employee, agent, contractor, customer, lender, insurer, ^{or of the owner or operator of a sport shooting range, and} or user of a sport shooting range is immune from civil liability in any action commenced by the state or its political subdivisions, or by a special purpose district, ^{owner or operator of a} for any claims related to the use, release, placement, deposition, or accumulation of any projectiles ^{on} in or under the sport shooting range or other contiguous real property over which the sport shooting range has an easement, leasehold, or other legal right to use.

****NOTE: I added the word "contiguous" to limit the immunity to those properties next to the sport shooting range. I am also concerned about the language "the sport shooting range has an easement...". Can a sport shooting range have an easement, or does the owner of a sport shooting range have an easement, leasehold, etc.?

SECTION 6. 895.527 (9) of the statutes is created to read:

895.527 (9) (a) *An owner or operator of a* sport shooting range that is in compliance with generally accepted sport shooting range performance standards may not be forced to permanently close or permanently cease any activity related to the primary use of the ^{sport shooting} range unless a circuit court finds that the range or activity is found to be a clear and immediate safety hazard.

****NOTE: The definition of "clear and immediate safety hazard" requires a determination by an NRA advisor, while this paragraph requires a court determination and the next paragraph requires a determination by a law enforcement agency. I am not sure how to reconcile these.

(b) If there is an incident reported to the ^{owner, employee, agent or contractor} operator of the sport shooting range of a clear and immediate safety hazard at a sport shooting range involving projectiles ^{allegedly} leaving the the sport shooting range, ^{that individual} the operator shall immediately report the incident to the ^{owner or operator of the sport shooting range and the} local law enforcement agency. That portion of the sport shooting range ^{allegedly} ~~alleged to have been~~ related to the projectiles leaving the the sport shooting range may be closed for up to 72 hours, at the discretion of the law enforcement agency, while the law enforcement agency completes its investigation of the incident.

1 The law enforcement agency may consult a National Rifle Association range
2 technical team advisor when determining if a clear and immediate safety hazard
3 existed at the sport shooting range. If the law enforcement agency determines that
4 a clear and immediate safety hazard existed at the sport shooting range, the agency
5 shall refer the matter to the district attorney, who shall determine if a court action
6 shall be commenced to ~~temporarily close~~ ^{order the temporary closure of} that portion of the sport shooting range that
7 has the alleged clear and immediate safety hazard. ^{owner or operator of a sport shooting range may operate the} The remaining balance of the
8 sport shooting range ~~may remain open~~ ^{if a portion of the sport shooting range is} is
9 ordered closed.

***NOTE: I had to add some language because it was unclear who had the authority to temporarily close a portion of the range. OK?

10 (c) In an action brought in circuit court to permanently close a sport shooting
11 range ^{that is} ~~that~~ ^{if the owner or operator of the sport shooting range} is in compliance with generally accepted sport shooting range
12 performance standards ^{or} in an action brought to permanently cease any activity
13 related to the primary use of a sport shooting range, there is a rebuttable
14 presumption that the range or activity is not a clear and immediate safety hazard.

15 (d) If the ^{owner or} operator of the sport shooting range provides evidence to the circuit
16 court that the cause of a clear and immediate safety hazard can be mitigated so as
17 to eliminate the clear and immediate safety hazard, the court shall not order the
18 permanent closure of the sport shooting range or the permanent cessation of an
19 activity found to be a clear and immediate safety hazard unless the sport shooting
20 range ^{owner or} operator, after repeated attempts, fails to implement the mitigation necessary
21 to remove the cause of a clear and immediate safety hazard. ^{The owner or operator of a sport shooting range may} All mitigation necessary
22 to remove the cause of a clear and immediate safety hazard ⁱⁿ may be performed by the
23 most practical and least expensive solution, as recommended by a National Rifle

1 Association range technical team advisor, based on criteria established in the
2 National Rifle Association Range Book.

3 (e) A circuit court may grant a permanent injunction only against a particular
4 activity at a sport shooting range or against a particular person ^{who uses the sport shooting range} instead of
5 ^{but may not permanently close} permanently closing a sport shooting range, unless the court finds that the
6 remaining operations of the sport shooting range also pose a clear and immediate
7 ^{sport shooting owner or} safety hazard and the range operator has been given every reasonable opportunity
8 to correct the hazard. Any sport shooting range that is permanently closed by court
9 ^{when the owner or operator of the sport shooting range satisfies} order under this subsection may reopen upon satisfying the court that issued the
10 order that the clear and immediate safety hazard has been remedied.

11 SECTION 7. 895.527 (10) of the statutes is created to read:

12 895.527 (10) (a) ^{An owner} A sport shooting range, an operator, owner, officer or board
13 member of a sport shooting range, and any National Rifle Association range
14 technical team advisor that provided recommendations regarding the operation of
15 a sport shooting range, are immune from any civil action based solely on the
16 negligent action of a user of the sport shooting range.

17 (b) The ^{owner or} operator of a sport shooting range shall refer any ^{negligence} criminal negligent use ^{939.25,}
18 of a sport shooting range to the local law enforcement agency for possible charges
19 against the individual who allegedly ^{committed} commits the crime.

20 (c) Any person who provides a firearms training course in good faith at a sport
21 shooting range is immune from civil liability for any act or omission related to the
22 ^{Firearms Training} course if the course is approved by a national or state organization.

****NOTE: Is there any way to limit or define what types of national or state
organizations can provide firearm training course approval?

23 SECTION 8. 895.527 (11) of the statutes is created to read:

1 895.527 (11) This section does not impair or diminish the private property
2 rights of owners of property adjoining a sport shooting range.

3 **SECTION 9.** 895.527 (12) of the statutes is created to read:

4 895.527 (12) (a) Within 90 days after the effective date of this subsection
5 [LRB inserts date], all claims by the state or its political subdivisions, by a special
6 purpose district, or by any other person, related to the operation or safety at a sport
7 shooting range, pending in court or an administrative agency, including actions
8 based on noise, zoning, or nonconforming use, shall be dismissed without prejudice
9 by the court or administrative agency. The dismissal of a claim under this paragraph
10 shall not effect the defendant's cause of action for damages, reasonable attorney fees,
11 or costs.

12 (b) If an action is commenced in violation of this section, the court shall order
13 the governmental body ^{state, political subdivision of the state, special purpose} or person who commenced the action to pay all of the ^{district}
14 defendant's expenses resulting from the commencement of the action.

15 **SECTION 10.** 895.527 (13) of the statutes is created to read:

16 895.527 (13) Any official, agent, or employee of the state or its political
17 subdivisions, or of a special purpose district, while he or she was acting in his or her
18 official capacity and within the scope of his or her employment or office, who willfully
19 and maliciously violates this section or who is party to bringing an action in violation
20 of this section is guilty of a Class A misdemeanor.

21 p
 of

(END)

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

October 22, 2013

message from Bob Welch re: 2486/p2 819-0150
wants to arrange meeting for 10/25 to discuss
bill.

contact in Rep. Knig's office is Randy Thron 266-0215

LT4

10/23

9:45

Bob Welch

cell 770-9789

Fri

11 am

819-0150



10/25 Bob Welch / Jeff Nass

Steve - DA of Chaska Co.

SEC 6 (a) Clear & convincing evidence

(b) Take DA out-hate
c.

Police determine if criminal action

DA involved in crim action
conduct

(c) Want to have
specific proof. Allegations
of former violations that
are unsubstantiated shall not
be considered ~~by the~~ ~~in~~ in
any adm or court action.

**WISCONSIN
FORCE**

Wisconsin Firearm Owners, Ranges,
Clubs and Educators, Inc

Executive Director

Jeffrey (Jeff) L. Nass

Phone 920-687-0505

E-mail jeff@wisconsinforce.org

Welch will send notes summarizing
what changes they want.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2486/DK

RPN:sac:ff

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-N

gen cat

1 **AN ACT** *to renumber and amend* 895.527 (1); *to amend* 895.527 (3) and
2 895.527 (4); and *to create* 895.527 (1) (a) and (b), 895.527 (8), 895.527 (9),
3 895.527 (10), 895.527 (11), 895.527 (12) and 895.527 (13) of the statutes;
4 **relating to:** liability, immunity, and closure of sport shooting ranges.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 895.527 (1) of the statutes is renumbered 895.527 (1) (intro.) and
6 amended to read:
7 895.527 (1) (intro.) In this section, "~~sport~~;
8 (c) "Sport shooting range" means an area designed and operated for the use and
9 discharge of firearms.

1 **SECTION 2.** 895.527 (1) (a) and (b) of the statutes are created to read:

2 895.527 (1) (a) "Clear and immediate safety hazard" means an imminent
3 danger to the public, which is an immediate and real threat of harm, and which could
4 reasonably be expected to cause death or serious physical injury to an individual, as
5 determined by a National Rifle Association range technical team advisor, based on
6 the criteria established in the National Rifle Association Range Book.

7 (b) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).

8 **SECTION 3.** 895.527 (3) of the statutes is amended to read:

9 895.527 (3) A person who owns or operates a sport shooting range is not subject
10 to an action for nuisance or to any state or local zoning conditions or rules, including
11 those related to noise or nonconforming use, and no court may enjoin or restrain the
12 operation or use of a sport shooting range on the basis of noise, non-conforming use,
13 or any other state or local zoning condition or rule.

14 **SECTION 4.** 895.527 (4) of the statutes, as affected by 2013 Wisconsin Act 35,
15 is amended to read:

16 895.527 (4) Any sport shooting range that exists on July 16, 2013, may continue
17 to operate as a sport shooting range at that location notwithstanding any zoning
18 ordinance enacted under s. 59.69, 59.692, 60.61, 60.62, 61.35 or 62.23 (7), if the sport
19 shooting range is a lawful use or a legal nonconforming use under any zoning
20 ordinance enacted under s. 59.69, 59.692, 60.61, 60.62, 61.35 or 62.23 (7) that is in
21 effect on July 16, 2013. The operation of the sport shooting range continues to be a
22 lawful use or legal nonconforming use notwithstanding any expansion of, or
23 enhancement or improvement to, the sport shooting range.

24 **SECTION 5.** 895.527 (8) of the statutes is created to read:

1 895.527 (8) An owner or operator of a sport shooting range, or an employee,
2 agent, contractor, customer, lender, or insurer of the owner or operator of a sport
3 shooting range, and any user of a sport shooting range is immune from civil liability
4 in any action commenced by the state or its political subdivisions, or by a special
5 purpose district, related to the use, release, placement, deposition, or accumulation
6 of any projectiles on or under the sport shooting range or other contiguous real
7 property over which the owner or operator of a sport shooting range has an easement,
8 leasehold, or other legal right to use.

9 **SECTION 6.** 895.527 (9) of the statutes is created to read:

10 895.527 (9) (a) *Except as provided in par. (b),*
11 compliance with generally accepted sport shooting range performance standards
12 may not be forced to ~~permanently close or~~ *temporarily or* permanently cease any activity related to
13 the primary use of the sport shooting range unless a circuit court finds *by clear and convincing evidence* that the range
14 or activity is ~~found to be~~ a clear and immediate safety hazard.

15 (b) If there is an incident reported to the owner, operator, employee, agent, or
16 contractor of the sport shooting range of a clear and immediate safety hazard at a
17 sport shooting range involving projectiles allegedly leaving the the sport shooting
18 range, that individual shall immediately report the incident to the owner or operator
19 of the sport shooting range and the local law enforcement agency. That portion of the
20 sport shooting range related to the projectiles allegedly leaving the sport shooting
21 range may be closed for up to 72 hours, at the discretion of the law enforcement
22 agency, while the law enforcement agency completes its investigation of the incident.
23 The law enforcement agency may consult a National Rifle Association range
24 technical team advisor when determining if a clear and immediate safety hazard
25 existed at the sport shooting range. If the law enforcement agency determines that

1 a clear and immediate safety hazard existed at the sport shooting range, the agency
2 shall refer the matter to the district attorney, who shall determine if a court action
3 shall be commenced to order the temporary closure of that portion of the sport
4 shooting range that has the alleged clear and immediate safety hazard. The owner
5 or operator of a sport shooting range may operate the remaining balance of the sport
6 shooting range if a portion of the sport shooting range is ordered closed.

7 (c) In ^{a civil} ~~an~~ action brought in circuit court to ^{temporarily or} ~~permanently~~ close a sport shooting
8 range or in ~~an~~ action brought to permanently cease any activity related to the
9 primary use of a sport shooting range, if the owner or operator of the sport shooting
10 range is in compliance with generally accepted sport shooting range performance
11 standards, there is a rebuttable presumption that the range or activity is not a clear
12 and immediate safety hazard. ↑

13 (d) If the owner or operator of the sport shooting range provides evidence to the
14 circuit court that the cause of a clear and immediate safety hazard can be mitigated
15 so as to eliminate the clear and immediate safety hazard, the court shall not order
16 the ^{temporary or} ~~permanent~~ closure of the sport shooting range or the permanent cessation of an
17 activity found to be a clear and immediate safety hazard unless the sport shooting
18 range owner or operator, after repeated attempts, fails to implement the mitigation
19 necessary to remove the cause of a clear and immediate safety hazard. The owner
20 or operator of a sport shooting range may remove the cause of a clear and immediate
21 safety hazard in the most practical and least expensive solution, as recommended by
22 a National Rifle Association range technical team advisor, based on criteria
23 established in the National Rifle Association Range Book.

24 (e) A circuit court may grant a ^{temporary or} ~~permanent~~ injunction only against a particular
25 activity at a sport shooting range or against a particular person who uses the sport

1 shooting range, but may not permanently close a sport shooting range unless the
2 court finds ^{by clear and convincing evidence} that the remaining operations of the sport shooting range also pose a clear
3 and immediate safety hazard and the sport shooting range owner or operator has
4 been given every reasonable opportunity to correct the hazard. Any sport shooting
5 range that ^{has been temporarily or} permanently closed by court order under this subsection may reopen
6 when the owner or operator of the sport shooting range satisfies the court that issued
7 the order that the clear and immediate safety hazard has been remedied. ^{or that the owner or operator has complied with the court's approved safety plan}

8 SECTION 7. 895.527 (10) of the statutes is created to read:

9 895.527 (10) (a) An owner, operator, officer, or board member of a sport shooting
10 range, and any National Rifle Association range technical team advisor that
11 provided recommendations regarding the operation of a sport shooting range, are
12 immune from any civil action based solely on the negligent action of a user of the
13 sport shooting range.

14 (b) The owner or operator of a sport shooting range shall refer any use of a sport
15 shooting range that may constitute criminal negligence, as defined in s. 939.25, to
16 the local law enforcement agency for possible charges against the individual who
17 allegedly committed the crime.

18 (c) Any person who provides a firearms training course in good faith at a sport
19 shooting range is immune from civil liability for any act or omission related to the
20 firearms training course if the course is approved by a national or state organization.

21 SECTION 8. 895.527 (11) of the statutes is created to read:

22 895.527 (11) This section does not impair or diminish the private property
23 rights of owners of property adjoining a sport shooting range.

24 SECTION 9. 895.527 (12) of the statutes is created to read:

895.527 (12) (a) Within 90 days after the effective date of this subsection [LRB inserts date], all claims by the state or its political subdivisions, by a special purpose district, or by any other person, related to the operation or safety at a sport shooting range, pending in court or an administrative agency, including actions based on noise, zoning, or nonconforming use, shall be dismissed without prejudice by the court or administrative agency. The dismissal of a claim under this paragraph shall not effect the defendant's cause of action for damages, reasonable attorney fees, or costs.

(b) If an action is commenced in violation of this section, the court shall order the state, political subdivision of the state, special purpose district, or person who commenced the action to pay all of the defendant's expenses resulting from the commencement of the action.

SECTION 10. 895.527 (13) of the statutes is created to read:

895.527 (13) Any official, agent, or employee of the state or its political subdivisions, or of a special purpose district, while he or she was acting in his or her official capacity and within the scope of his or her employment or office, who willfully and maliciously violates this section or who is party to bringing an action in violation of this section is guilty of a Class A misdemeanor.

(END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2486/P3ins
RPN:sac:jf

1

2

insert 4-7:

3

^{not} a crime was committed at the sports shooting range, the agency shall refer the

4

matter to the district attorney. The district attorney shall determine if a complaint

5

charging a person with an offense shall be issued.

6

^{not a civil} In ~~an~~ action brought under this ^{paragraph}, the person who brought the action has the

7

burden of proving by clear and convincing evidence that a clear and immediate safety

8

hazard exists at the sport shooting range. The court may not consider allegations of

9

former violations that were unsubstantiated when determining if the person who

10

brought ^{the action} shall prevail. The owner of a sport shooting range may operate the

11

remaining balance of the sport shooting range if the court orders the closure of a

12

portion of the sport shooting range.

Insert
4-12

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2486/P3dn

RPN:sac:jf *fe*

-date-

An attorney that drafts in the area of shoreline zoning asked if you wanted to include references to sections 61.351' and 62.231' in the list of zoning ordinances in section 895.527 (4). Apparently those sections give villages and cities zoning powers regarding wetlands.

Robert Nelson
Senior Legislative Attorney
Phone: (608) 266-9739
E-mail: robert.nelson@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2486/P3dn
RPN:sac:jm

November 20, 2013

An attorney that drafts in the area of shoreline zoning asked if you wanted to include references to sections 61.351 and 62.231 in the list of zoning ordinances in section 895.527 (4). Apparently those sections give villages and cities zoning powers regarding wetlands.

Robert Nelson
Senior Legislative Attorney
Phone: (608) 266-9739
E-mail: robert.nelson@legis.wisconsin.gov



wanted 12/10
State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2486/P8
RPN:sac:fm

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gen act

1 **AN ACT** *to renumber and amend* 895.527 (1); *to amend* 895.527 (3) and
2 895.527 (4); and *to create* 895.527 (1) (a) and (b), 895.527 (8), 895.527 (9),
3 895.527 (10), 895.527 (11), 895.527 (12) and 895.527 (13) of the statutes;
4 **relating to:** liability, immunity, and closure of sport shooting ranges *and providing a penalty*

ins and

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 895.527 (1) of the statutes is renumbered 895.527 (1) (intro.) and
6 amended to read:
7 895.527 (1) (intro.) In this section, "sport:
8 (c) "Sport shooting range" means an area designed and operated for the use and
9 discharge of firearms.

1 **SECTION 2.** 895.527 (1) (a) and (b) of the statutes are created to read:

2 895.527 (1) (a) “Clear and immediate safety hazard” means an imminent
3 danger to the public, which is an immediate and real threat of harm, and which could
4 reasonably be expected to cause death or serious physical injury to an individual, as
5 determined by a National Rifle Association range technical team advisor, based on
6 the criteria established in the National Rifle Association Range Book.

7 (b) “Law enforcement agency” has the meaning given in s. 165.83 (1) (b).

8 **SECTION 3.** 895.527 (3) of the statutes is amended to read:

9 895.527 (3) A person who owns or operates a sport shooting range is not subject
10 to an action for nuisance or to any state or local zoning conditions or rules, including
11 those related to noise or nonconforming use, and no court may enjoin or restrain the
12 operation or use of a sport shooting range on the basis of noise, non-conforming use,
13 or any other state or local zoning condition or rule.

14 **SECTION 4.** 895.527 (4) of the statutes, as affected by 2013 Wisconsin Act 35,
15 is amended to read:

16 895.527 (4) Any sport shooting range that exists on July 16, 2013, may continue
17 to operate as a sport shooting range at that location notwithstanding any zoning
18 ordinance enacted under s. 59.69, 59.692, 60.61, 60.62, 61.35 or 62.23 (7), if the sport
19 shooting range is a lawful use or a legal nonconforming use under any zoning
20 ordinance enacted under s. 59.69, 59.692, 60.61, 60.62, 61.35 or 62.23 (7) that is in
21 effect on July 16, 2013. The operation of the sport shooting range continues to be a
22 lawful use or legal nonconforming use notwithstanding any expansion of, or
23 enhancement or improvement to, the sport shooting range.

24 **SECTION 5.** 895.527 (8) of the statutes is created to read:

1 895.527 (8) An owner or operator of a sport shooting range, or an employee,
2 agent, contractor, customer, lender, or insurer of the owner or operator of a sport
3 shooting range, and any user of a sport shooting range is immune from civil liability
4 in any action commenced by the state or its political subdivisions, or by a special
5 purpose district, related to the use, release, placement, deposition, or accumulation
6 of any projectiles on or under the sport shooting range or other contiguous real
7 property over which the owner or operator of a sport shooting range has an easement,
8 leasehold, or other legal right to use.

9 **SECTION 6.** 895.527 (9) of the statutes is created to read:

10 895.527 (9) (a) Except as provided in par. (b), an owner or operator of a sport
11 shooting range that is in compliance with generally accepted sport shooting range
12 performance standards may not be forced to temporarily or permanently close or
13 temporarily or permanently cease any activity related to the primary use of the sport
14 shooting range unless a circuit court finds by clear and convincing evidence that the
15 range or activity is a clear and immediate safety hazard.

16 (b) If there is an incident reported to the owner, operator, employee, agent, or
17 contractor of the sport shooting range of a clear and immediate safety hazard at a
18 sport shooting range involving projectiles allegedly leaving the the sport shooting
19 range, that individual shall immediately report the incident to the owner or operator
20 of the sport shooting range and the local law enforcement agency. That portion of the
21 sport shooting range related to the projectiles allegedly leaving the sport shooting
22 range may be closed for up to 72 hours, at the discretion of the law enforcement
23 agency, while the law enforcement agency completes its investigation of the incident.
24 The law enforcement agency may consult a National Rifle Association range
25 technical team advisor when determining if a clear and immediate safety hazard

1 existed at the sport shooting range. If the law enforcement agency determines that
2 a crime was committed at the sports shooting range, the agency shall refer the matter
3 to the district attorney. The district attorney shall determine if a complaint charging
4 a person with an offense shall be issued.

5 (c) In a civil action brought in circuit court to temporarily or permanently close
6 a sport shooting range or in a civil action brought to temporarily or permanently
7 cease any activity related to the primary use of a sport shooting range, if the owner
8 or operator of the sport shooting range is in compliance with generally accepted sport
9 shooting range performance standards, there is a rebuttable presumption that the
10 range or activity is not a clear and immediate safety hazard. In a civil action brought
11 under this paragraph, the person who brought the action has the burden of proving
12 by clear and convincing evidence that a clear and immediate safety hazard exists at
13 the sport shooting range. The court may not consider allegations of former violations
14 that were unsubstantiated when determining if the person who brought the action
15 shall prevail. The owner ^{or operator} of a sport shooting range may operate the remaining
16 balance of the sport shooting range if the court orders the closure of a portion of the
17 sport shooting range.

18 (d) If the owner or operator of the sport shooting range provides evidence to the
19 circuit court that the cause of a clear and immediate safety hazard can be mitigated
20 so as to eliminate the clear and immediate safety hazard, the court shall not order
21 the temporary or permanent closure of the sport shooting range or the temporary or
22 permanent cessation of an activity found to be a clear and immediate safety hazard
23 unless the sport shooting range owner or operator, after repeated attempts, fails to
24 implement the mitigation necessary to remove the cause of a clear and immediate
25 safety hazard. The owner or operator of a sport shooting range may remove the cause

1 of a clear and immediate safety hazard in the most practical and least expensive
2 solution, as recommended by a National Rifle Association range technical team
3 advisor, based on criteria established in the National Rifle Association Range Book.

4 (e) A circuit court may grant a temporary or permanent injunction only against
5 a particular activity at a sport shooting range or against a particular person who uses
6 the sport shooting range, but may not permanently close a sport shooting range
7 unless the court finds by clear and convincing evidence that the remaining
8 operations of the sport shooting range also pose a clear and immediate safety hazard
9 and the sport shooting range owner or operator has been given every reasonable
10 opportunity to correct the hazard. Any sport shooting range that has been
11 temporarily or permanently closed by court order may reopen when the owner or
12 operator of the sport shooting range satisfies the court that issued the order that the
13 clear and immediate safety hazard has been remedied or that the owner or operator
14 has complied with the court-approved safety plan.

15 **SECTION 7.** 895.527 (10) of the statutes is created to read:

16 895.527 (10) (a) An owner, operator, officer, or board member of a sport shooting
17 range, and any National Rifle Association range technical team advisor that
18 provided recommendations regarding the operation of a sport shooting range, are
19 immune from any civil action based solely on the negligent action of a user of the
20 sport shooting range.

21 (b) The owner or operator of a sport shooting range shall refer any use of a sport
22 shooting range that may constitute criminal negligence, as defined in s. 939.25, to
23 the local law enforcement agency for possible charges against the individual who
24 allegedly committed the crime.

1 (c) Any person who provides a firearms training course in good faith at a sport
2 shooting range is immune from civil liability for any act or omission related to the
3 firearms training course if the course is approved by a national or state organization.

4 **SECTION 8.** 895.527 (11) of the statutes is created to read:

5 895.527 (11) This section does not impair or diminish the private property
6 rights of owners of property adjoining a sport shooting range.

7 **SECTION 9.** 895.527 (12) of the statutes is created to read:

8 895.527 (12) (a) Within 90 days after the effective date of this subsection
9 [LRB inserts date], all claims by the state or its political subdivisions, by a special
10 purpose district, or by any other person, related to the operation or safety at a sport
11 shooting range, pending in court or an administrative agency, including actions
12 based on noise, zoning, or nonconforming use, shall be dismissed without prejudice
13 by the court or administrative agency. The dismissal of a claim under this paragraph
14 shall not effect the defendant's cause of action for damages, reasonable attorney fees,
15 or costs.

16 (b) If an action is commenced in violation of this section, the court shall order
17 the state, political subdivision of the state, special purpose district, or person who
18 commenced the action to pay all of the defendant's expenses resulting from the
19 commencement of the action.

20 **SECTION 10.** 895.527 (13) of the statutes is created to read:

21 895.527 (13) Any official, agent, or employee of the state or its political
22 subdivisions, or of a special purpose district, while he or she was acting in his or her
23 official capacity and within the scope of his or her employment or office, who willfully

3 (END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2486/lins
RPN:sac:jm

1 insert anl:

Under current law, a person who owns or operates an area designed and operated for the use and discharge of firearms (sport shooting range) is immune from civil liability relating to noise and is not subject to an action for nuisance or to zoning conditions related to noise. Current law also provides that if a sport shooting range lawfully existed on July 16, 2013, it may continue to operate as a sport shooting range at that location even if certain zoning ordinances or laws regulating the discharge of firearms would otherwise prohibit the operation of the sport shooting range.

* Under this bill, a sport shooting range is not subject to any state or local zoning conditions or rules related to noise or to nonconforming use. The bill expands those zoning laws that do not apply to sport shooting ranges to include zoning laws related to shorelands on navigable waters. The bill also provides the owner or operator of a sports shooting range, and their agents, contractors, customers, lenders, and insurers immunity from civil liability in any action by the state or its political subdivisions or by a special purpose district related to the use, release, placement, or accumulation of any projectiles on or under the sport shooting range or other contiguous real property that the owner or operator has the legal right to use.

Under the bill, if the owner or operator of a sport shooting range is in compliance with generally accepted sport shooting range performance standards, the owner or operator may not be forced to temporarily or permanently close or cease an activity related to the sport shooting range unless a circuit court finds by clear and convincing evidence that the range or activity is a clear and immediate safety hazard.

The bill requires the owner or operator to immediately report to the local law enforcement agency any incident involving projectiles allegedly leaving the sport shooting range. Under the bill, the law enforcement agency may then close that portion of the sport shooting range involved in the incident for up to 72 hours while it completes its investigation of the incident. The bill allows the law enforcement agency to consult with the National Rifle Association range technical team to help determine if a clear and immediate safety hazard existed at the sport shooting range. In addition, the law enforcement agency is required under the bill to refer any matter to the district attorney that it determined involved the commission of a crime.

rebuttable The bill provides that when a civil action is brought in circuit court to temporarily or permanently close a sport shooting range or to cease certain activities, there is a rebuttable presumption that the range or activity is not a clear and immediate safety hazard if the owner or operator of the sport shooting range is in compliance with generally accepted sport shooting range performance standards. Under the bill, the person bringing the action has the burden of proving by clear and convincing evidence that a clear and immediate safety hazard exists at the sport shooting range. The bill prohibits the court from considering any unsubstantiated allegations of former violations and allows the owner or operator of the sport shooting range to operate the remaining balance of the sport shooting range if the court orders the closure of a portion of the sport shooting range.

to Under the bill, if the owner or operator of the sport shooting range provides evidence to the court that the cause of the clear and immediate safety hazard can be mitigated, the court may not order the closure of the sport shooting range or the cessation of an activity unless the owner or operator of the sport shooting range, after repeated attempts, fails to implement the necessary mitigation. The bill allows the circuit court to enjoin a particular activity at a sport shooting range, or a particular person, but prohibits the permanent closure of the sport shooting range unless the court finds by clear and convincing evidence that the remaining operations of the sport shooting range also pose a clear and immediate safety hazard and the owner or operator has been given every reasonable opportunity to correct the hazard. The bill allows a sport shooting range to reopen if the owner or operator of the sport shooting range satisfies the court that the clear and immediate safety hazard has been remedied or that the owner or operator has complied with the court-ordered safety plan.

* The bill provides immunity from civil action to the owner, operator, officer, or board member of a sport shooting range, and to any National Rifle Association range technical team member for any negligent action of a user of the sport shooting range and to any person who provides a firearms training course in good faith at a sports shooting range if the course is approved by a national or state organization. The bill further requires the owner or operator of the sport shooting range to refer any use of the sport shooting range that constitutes criminal negligence to the local law enforcement agency.

* Under the bill, within 90 days after the effective date of the bill, all pending court or administrative claims by the state or its political subdivisions, by a special purpose district, or by any other person, related to the operation or safety at a sport shooting range must be dismissed without prejudice by the court or administrative agency involved in the claim. This dismissal, under the bill, does not effect the defendant's cause of action for damages, reasonable attorney fees, or costs. The bill also creates a Class A misdemeanor for any malicious violation of the provision of this bill by an official, agent, or employee of the state or its political subdivisions, or of a special purpose district, while acting in his or her official capacity and within the scope of his or her employment. The bill requires the state or its political subdivisions, the special purpose district, or the person, who commences an action in violation of the provisions of this bill to pay the defendant's expenses resulting from the commencement of that action. s

Parisi, Lori

From: Thorson, Randy
Sent: Tuesday, December 10, 2013 8:27 AM
To: LRB.Legal
Subject: Draft Review: LRB -2486/1 Topic: Sport shooting range immunity and nuisance action restrictions

Please Jacket LRB -2486/1 for the ASSEMBLY.

Nelson, Robert

From: Thorson, Randy
Sent: Wednesday, January 15, 2014 1:10 PM
To: Nelson, Robert
Subject: New drafting memo LRB 2486
Attachments: New drafting memo Jan 2014.docx

Bob,

Per my voicemail, here is the email from Bob Welch with the changes they would like.

If you have any questions please let me know.

Thank you.

Randy Thorson
Research Assistant to
Scott Krug
State Representative
72nd Assembly District

From: Bob Welch [<mailto:rtwelch14@yahoo.com>]
Sent: Wednesday, January 15, 2014 12:50 PM
To: Thorson, Randy
Subject: New drafting memo

Randy,

Here are the changes we discussed. Since this is mostly cutting and pasting, I am hoping we can get a draft back fairly quickly.

Thanks!

Bob

Bob Welch
The Welch Group
16 N Carroll Street, Suite 600
Madison, WI 53703

bob@thewelchgroup.org

608-819-0150

2014 Range Protection Act

We would like to redraft the bill LRB(2486/1) to include only the following:

1 – Expands current “grandfather” exemptions from local regulations to include regulations of “nonconforming use” and shoreland zoning. Current law already has “grandfather” clauses applying to local zoning and noise ordinances.

2 – Provides that board members of shooting clubs, their advisors, and firearms educators are immune from liability concerning actions arising from the negligent acts of a user of the range. It further requires that owners or operators report any potential criminally negligent acts to law enforcement.

3 – Provides owners, operators, and users immunity from actions related to the deposition of bullets or shot on the lands controlled by the range. It specifies that this bill does NOT affect the property rights of neighboring parcels.

I believe this will include Sections: 1, 3, 4, 5, and 7 paragraphs 10(a) and (c) (but not (b)).

SEC 8!

In addition, in Section 7 paragraph 10(a) make the following changes:

Starting on page 7 line 8 delete “National Rifle Association range technical team”

Substitute: “certified range technicians, professionals and volunteers acting in their area of expertise,”



Bob Welch - chg to
employee or volunteer
advising or acting on
behalf of owner
or operator

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

any employee or volunteer
acting on or advising the
owner



In 1/16 Wanted - Quickly today

State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2486/1

RPN:sac:rs

2013 BILL

reger

1 AN ACT *to renumber and amend* 895.527 (1); *to amend* 895.527 (3) and
2 895.527 (4); and *to create* 895.527 (1) (a) and (b), 895.527 (8), 895.527 (9),
3 895.527 (10), 895.527 (11), 895.527 (12) and 895.527 (13) of the statutes;
4 relating to: liability, ^{and} immunity, ^{the} and closure of sport shooting ranges ~~and~~
5 ~~providing a penalty~~

Analysis by the Legislative Reference Bureau

Under current law, a person who owns or operates an area designed and operated for the use and discharge of firearms (sport shooting range) is immune from civil liability relating to noise and is not subject to an action for nuisance or to zoning conditions related to noise. Current law also provides that if a sport shooting range lawfully existed on July 16, 2013, it may continue to operate as a sport shooting range at that location even if certain zoning ordinances or laws regulating the discharge of firearms would otherwise prohibit the operation of the sport shooting range.

Under this bill, a sport shooting range is not subject to any state or local zoning conditions or rules related to noise or to nonconforming use. The bill expands those zoning laws that do not apply to sport shooting ranges to include zoning laws related to shorelands on navigable waters. The bill also provides the owner or operator of a sports shooting range, and their agents, contractors, customers, lenders, and insurers immunity from civil liability in any action by the state or its political subdivisions or by a special purpose district related to the use, release, placement, or accumulation of any projectiles on or under the sport shooting range or other contiguous real property that the owner or operator has the legal right to use.

BILL

Under the bill, if the owner or operator of a sport shooting range is in compliance with generally accepted sport shooting range performance standards, the owner or operator may not be forced to temporarily or permanently close or cease an activity related to the sport shooting range unless a circuit court finds by clear and convincing evidence that the range or activity is a clear and immediate safety hazard.

The bill requires the owner or operator to immediately report to the local law enforcement agency any incident involving projectiles allegedly leaving the sport shooting range. Under the bill, the law enforcement agency may then close that portion of the sport shooting range involved in the incident for up to 72 hours while it completes its investigation of the incident. The bill allows the law enforcement agency to consult with the National Rifle Association range technical team to help determine if a clear and immediate safety hazard existed at the sport shooting range. In addition, the law enforcement agency is required under the bill to refer any matter to the district attorney that it determined involved the commission of a crime.

The bill provides that when a civil action is brought in circuit court to temporarily or permanently close a sport shooting range or to cease certain activities, there is a rebuttable presumption that the range or activity is not a clear and immediate safety hazard if the owner or operator of the sport shooting range is in compliance with generally accepted sport shooting range performance standards. Under the bill, the person bringing the action has the burden of proving by clear and convincing evidence that a clear and immediate safety hazard exists at the sport shooting range. The bill prohibits the court from considering any unsubstantiated allegations of former violations and allows the owner or operator of the sport shooting range to operate the remaining balance of the sport shooting range if the court orders the closure of a portion of the sport shooting range.

Under the bill, if the owner or operator of the sport shooting range provides evidence to the court that the cause of the clear and immediate safety hazard can be mitigated, the court may not order the closure of the sport shooting range or the cessation of an activity unless the owner or operator of the sport shooting range, after repeated attempts, fails to implement the necessary mitigation. The bill allows the circuit court to enjoin a particular activity at a sport shooting range, or a particular person, but prohibits the permanent closure of the sport shooting range unless the court finds by clear and convincing evidence that the remaining operations of the sport shooting range also pose a clear and immediate safety hazard and the owner or operator has been given every reasonable opportunity to correct the hazard. The bill allows a sport shooting range to reopen if the owner or operator of the sport shooting range satisfies the court that the clear and immediate safety hazard has been remedied or that the owner or operator has complied with the court-ordered safety plan.

The bill provides immunity from civil action to the owner, operator, officer, or board member of a sport shooting range, and to any ~~National Rifle Association range technical team member~~, for any negligent action of a user of the sport shooting range and to any person who provides a firearms training course in good faith at a sports shooting range if the course is approved by a national or state organization. The bill further requires the owner or operator of the sport shooting range to refer any use

employee or volunteer acting on behalf of the ~~owner~~ owner or operator

BILL

of the sport shooting range that constitutes criminal negligence to the local law enforcement agency.

Under the bill, within 90 days after the effective date of the bill, all pending court or administrative claims by the state or its political subdivisions, by a special purpose district, or by any other person, related to the operation or safety at a sport shooting range must be dismissed without prejudice by the court or administrative agency involved in the claim. This dismissal, under the bill, does not effect the defendant's cause of action for damages, reasonable attorney fees, or costs. The bill also creates a Class A misdemeanor for any malicious violation of the provisions of this bill by an official, agent, or employee of the state or its political subdivisions, or of a special purpose district, while acting in his or her official capacity and within the scope of his or her employment. The bill requires the state or its political subdivisions, the special purpose district, or the person, who commences an action in violation of the provisions of this bill to pay the defendant's expenses resulting from the commencement of that action.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 895.527 (1) of the statutes is renumbered 895.527 (1) (intro.) and amended to read:

895.527 (1) (intro.) In this section, "sport:

(c) "Sport shooting range" means an area designed and operated for the use and discharge of firearms.

SECTION 2. 895.527 (1) (a) and (b) of the statutes are created to read:

895.527 (1) (a) "Clear and immediate safety hazard" means an imminent danger to the public, which is an immediate and real threat of harm, and which could reasonably be expected to cause death or serious physical injury to an individual, as determined by a National Rifle Association range technical team advisor, based on the criteria established in the National Rifle Association Range Book.

(b) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).

SECTION 3. 895.527 (3) of the statutes is amended to read:

BILL**SECTION 3**

1 895.527 (3) A person who owns or operates a sport shooting range is not subject
2 to an action for nuisance or to any state or local zoning conditions or rules, including
3 those related to noise or nonconforming use, and no court may enjoin or restrain the
4 operation or use of a sport shooting range on the basis of noise, non-conforming use,
5 or any other state or local zoning condition or rule.

6 SECTION 4. 895.527 (4) of the statutes, as affected by 2013 Wisconsin Act 35,
7 is amended to read:

8 895.527 (4) Any sport shooting range that exists on July 16, 2013, may continue
9 to operate as a sport shooting range at that location notwithstanding any zoning
10 ordinance enacted under s. 59.69, 59.692, 60.61, 60.62, 61.35 or 62.23 (7), if the sport
11 shooting range is a lawful use or a legal nonconforming use under any zoning
12 ordinance enacted under s. 59.69, 59.692, 60.61, 60.62, 61.35 or 62.23 (7) that is in
13 effect on July 16, 2013. The operation of the sport shooting range continues to be a
14 lawful use or legal nonconforming use notwithstanding any expansion of, or
15 enhancement or improvement to, the sport shooting range.

16 SECTION 5. 895.527 (8) of the statutes is created to read:

17 895.527 (8) An owner or operator of a sport shooting range, or an employee,
18 agent, contractor, customer, lender, or insurer of the owner or operator of a sport
19 shooting range, and any user of a sport shooting range is immune from civil liability
20 in any action commenced by the state or its political subdivisions, or by a special
21 purpose district, related to the use, release, placement, deposition, or accumulation
22 of any projectiles on or under the sport shooting range or other contiguous real
23 property over which the owner or operator of a sport shooting range has an easement,
24 leasehold, or other legal right to use.

25 SECTION 6. 895.527 (9) of the statutes is created to read:

BILL

1 895.527 (9) (a) Except as provided in par. (b), an owner or operator of a sport
2 shooting range that is in compliance with generally accepted sport shooting range
3 performance standards may not be forced to temporarily or permanently close or
4 temporarily or permanently cease any activity related to the primary use of the sport
5 shooting range unless a circuit court finds by clear and convincing evidence that the
6 range or activity is a clear and immediate safety hazard.

7 (b) If there is an incident reported to the owner, operator, employee, agent, or
8 contractor of the sport shooting range of a clear and immediate safety hazard at a
9 sport shooting range involving projectiles allegedly leaving the the sport shooting
10 range, that individual shall immediately report the incident to the owner or operator
11 of the sport shooting range and the local law enforcement agency. That portion of the
12 sport shooting range related to the projectiles allegedly leaving the sport shooting
13 range may be closed for up to 72 hours, at the discretion of the law enforcement
14 agency, while the law enforcement agency completes its investigation of the incident.
15 The law enforcement agency may consult a National Rifle Association range
16 technical team advisor when determining if a clear and immediate safety hazard
17 existed at the sport shooting range. If the law enforcement agency determines that
18 a crime was committed at the sports shooting range, the agency shall refer the matter
19 to the district attorney. The district attorney shall determine if a complaint charging
20 a person with an offense shall be issued.

21 (c) In a civil action brought in circuit court to temporarily or permanently close
22 a sport shooting range or in a civil action brought to temporarily or permanently
23 cease any activity related to the primary use of a sport shooting range, if the owner
24 or operator of the sport shooting range is in compliance with generally accepted sport
25 shooting range performance standards, there is a rebuttable presumption that the

BILL**SECTION 6**

1 range or activity is not a clear and immediate safety hazard. In a civil action brought
2 under this paragraph, the person who brought the action has the burden of proving
3 by clear and convincing evidence that a clear and immediate safety hazard exists at
4 the sport shooting range. The court may not consider allegations of former violations
5 that were unsubstantiated when determining if the person who brought the action
6 shall prevail. The owner or operator of a sport shooting range may operate the
7 remaining balance of the sport shooting range if the court orders the closure of a
8 portion of the sport shooting range.

9 (d) If the owner or operator of the sport shooting range provides evidence to the
10 circuit court that the cause of a clear and immediate safety hazard can be mitigated
11 so as to eliminate the clear and immediate safety hazard, the court shall not order
12 the temporary or permanent closure of the sport shooting range or the temporary or
13 permanent cessation of an activity found to be a clear and immediate safety hazard
14 unless the sport shooting range owner or operator, after repeated attempts, fails to
15 implement the mitigation necessary to remove the cause of a clear and immediate
16 safety hazard. The owner or operator of a sport shooting range may remove the cause
17 of a clear and immediate safety hazard in the most practical and least expensive
18 solution, as recommended by a National Rifle Association range technical team
19 advisor, based on criteria established in the National Rifle Association Range Book.

20 (e) A circuit court may grant a temporary or permanent injunction only against
21 a particular activity at a sport shooting range or against a particular person who uses
22 the sport shooting range, but may not permanently close a sport shooting range
23 unless the court finds by clear and convincing evidence that the remaining
24 operations of the sport shooting range also pose a clear and immediate safety hazard
25 and the sport shooting range owner or operator has been given every reasonable

opportunity to correct the hazard. Any sport shooting range that has been temporarily or permanently closed by court order may reopen when the owner or operator of the sport shooting range satisfies the court that issued the order that the clear and immediate safety hazard has been remedied or that the owner or operator has complied with the court-approved safety plan.

SECTION 7. 895.527 (10) of the statutes is created to read:

895.527 (10) (a) An owner, operator, officer, or board member of a sport shooting range, and any ~~National Rifle Association range technical team advisor~~ ^{who} provided recommendations regarding the operation of a sport shooting range, are immune from any civil action based solely on the negligent action of a user of the sport shooting range.

(b) The owner or operator of a sport shooting range shall refer any use of a sport shooting range that may constitute criminal negligence, as defined in s. 939.25, to the local law enforcement agency for possible charges against the individual who allegedly committed the crime.

(c) Any person who provides a firearms training course in good faith at a sport shooting range is immune from civil liability for any act or omission related to the firearms training course if the course is approved by a national or state organization.

SECTION 8. 895.527 (11) of the statutes is created to read:

895.527 (11) This section does not impair or diminish the private property rights of owners of property adjoining a sport shooting range.

SECTION 9. 895.527 (12) of the statutes is created to read:

895.527 (12) (a) Within 90 days after the effective date of this subsection [LRB inserts date], all claims by the state or its political subdivisions, by a special purpose district, or by any other person, related to the operation or safety at a sport

BILL**SECTION 9**

1 shooting range, pending in court or an administrative agency, including actions
2 based on noise, zoning, or nonconforming use, shall be dismissed without prejudice
3 by the court or administrative agency. The dismissal of a claim under this paragraph
4 shall not effect the defendant's cause of action for damages, reasonable attorney fees,
5 or costs.

6 (b) If an action is commenced in violation of this section, the court shall order
7 the state, political subdivision of the state, special purpose district, or person who
8 commenced the action to pay all of the defendant's expenses resulting from the
9 commencement of the action.

10 **SECTION 10.** 895.527 (13) of the statutes is created to read:

11 895.527 (13) Any official, agent, or employee of the state or its political
12 subdivisions, or of a special purpose district, while he or she was acting in his or her
13 official capacity and within the scope of his or her employment or office, who willfully
14 and maliciously violates this section or who is party to bringing an action in violation
15 of this section is guilty of a Class A misdemeanor.

16 (END)